

GRANT & EISENHOFER P.A.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re *Ex Parte* Application of QIC LTD.,

Applicant,

For an Order Granting Leave to Obtain Discovery
from DEUTSCHE BANK AG NEW YORK
BRANCH and DEUTSCHE BANK TRUST
COMPANY OF THE AMERICAS,

Respondents,

For Use in a Foreign Proceeding Pursuant to 28
U.S.C. § 1782

Misc. Action No.: 23-mc-355

**EX PARTE APPLICATION FOR
ORDER PURSUANT TO 28 U.S.C. §
1782**

SO ORDERED

LEWIS A. KAPLAN, USDJ

Applicant QIC Ltd. ("Applicant") respectfully makes this *ex parte* Application for an order, pursuant to 28 U.S.C. § 1782, authorizing Applicant to serve subpoenas for deposition testimony and the production of documents on Deutsche Bank AG New York Branch and Deutsche Bank Trust Company of the Americas (together, "Deutsche Bank U.S." or "Respondents") for use in a foreign litigation (the "Application"). This Application is supported by a Memorandum of Law, Declaration of Alice Y. Cho, Esq., dated September 29, 2023 ("Cho Declaration"), and exhibits thereto, and Declaration of Lotte Noer, Esq., dated September 29, 2023, and exhibits thereto, all

filed concurrently herewith. A proposed order is attached hereto and the subpoenas with Schedule A's are attached to the Cho Declaration as Exhibits H, I, J and K.

Applicant seeks to serve subpoenas for deposition testimony and production of documents on Deutsche Bank U.S. for use in civil damages proceedings filed by Grant & Eisenhofer P.A. on behalf of its clients against Danske Bank A/S ("Danske") in Copenhagen City Court in Denmark, with most cases now pending before the Eastern High Court of Denmark (collectively, the "Danish Actions"). The Danish Actions were initiated on March 14, 2019, with several waves of additional claims filed between October 2019 and February 2021, bringing the total number of claims to over 300 alleging combined losses of over \$1 billion. Most claims in the Danish Actions are pending before the Eastern High Court of Denmark, while about a third of the claims are stayed before the lower City Court.

This Application fulfills the requirements of Section 1782. Deutsche Bank U.S. consists of two entities licensed by the New York State Department of Financial Services to operate in the State of New York and can thus be found in this district. Deutsche Bank U.S. is not a party to the Danish Actions, which places it beyond the Danish courts' jurisdictional reach, whereas the Applicant *is* a Claimant in the Danish Actions (securities fraud damages actions pending in civil trial courts in Denmark) – and thus is an "interested person" for purposes of Section 1782 – and the discovery they seek is for use in the Danish Actions. Further, the Applicant is not using this Application to circumvent foreign proof-taking restrictions of Danish courts nor other policies of Denmark or the United States, and Danish courts are known to be receptive to U.S. court assistance. Finally, the discovery sought is highly relevant to the Danish Actions and is neither burdensome nor unduly intrusive. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 262-265 (2004).

Section 1782 applications are commonly made and granted *ex parte*, with any privilege issues raised and resolved through a motion to quash made after a subpoena has been authorized and issued. *See, e.g., Gushlak v. Gushlak*, 486 F. App'x 215, 217 (2d Cir. 2012).

Granting this Application would further the twin aims of the Section 1782 statute of providing an efficient means of assistance to participants in international litigation, like the Applicant, and encouraging foreign countries like Denmark to provide similar means of judicial assistance to U.S. courts and litigants. *See Euromepa S.A. v. R. Esmerian Inc.*, 51 F.3d 1095, 1097 (2d Cir. 1995).

WHEREFORE, the Applicant respectfully requests that this Court enter an Order:

1. granting the Application for discovery and permitting the issuance of subpoenas substantially in the form of Exhibits H, I, J and K to the Cho Declaration submitted in support of the Application;
2. directing Deutsche Bank U.S. to give deposition testimony and produce documents in its possession, custody, or control, as requested in Schedule A of the Subpoenas; and
3. granting such other and further relief as the Court deems appropriate.

Dated: September 29, 2023
New York, New York

Respectfully submitted,

By: /s/ Olav A. Haazen

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